



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 10th March, 2017:—

### I

#### BILL NO. XXXIV OF 2016

*A Bill to provide for the compulsory health insurance for the senior citizens, mentally retarded children and physically disabled persons to be funded by the Government and for free of cost treatment of insured persons by all hospitals including private hospitals and clinics, etc. and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Health Insurance for Senior Citizens, Mentally Retarded Children and Disabled Persons Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,  
extent and  
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "beneficiary" means a disabled person, senior citizen or mentally retarded child who has been given Health Insurance under this Act;

(c) "child" means a human being irrespective gender who is below the age of twenty years;

(d) "disabled person" means a person suffering from not less than forty percent of any physical disability as certified by a competent medical authority and whose monthly income from all sources is not more than twenty thousand rupees;

(e) "Disability" shall have the same meaning as assigned to it in clause (i) of section 2 of the Persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1995;

1 of 1996.

(f) "mentally retarded child" means a child with a condition of arrest or incomplete development of mind which is specially characterised by subnormality of intelligence;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "scheme" means Health Insurance Scheme framed under section 3;

(i) "senior Citizen" means a person male, female or transgender who has completed the age of sixty years.

Comprehensive  
Health  
Insurance  
Scheme for  
the senior  
citizens,  
mentally  
retarded  
children and  
disabled  
persons.

3. (1) The Central Government shall, as soon as may be, but within one year of the commencement of this Act, by notification in the Official Gazette, formulate a Comprehensive Health Insurance Scheme for the senior citizens, mentally retarded children and disabled persons.

(2) The appropriate Government shall pay the premium of health insurance payable by the senior citizens, mentally retarded children and disabled persons to the insurer for providing healthcare services to the beneficiaries covered under the provisions of this Act in such manner as may be prescribed.

Free Health  
care facilities

4. (1) Notwithstanding anything contained in any other law for the time being in force, every beneficiary covered under this act, shall be entitled to healthcare facilities, free of cost from all the hospitals including Government and privately owned hospitals, nursing homes clinics, etc. as may be specified by the appropriate Government from time to time;

(2) The free healthcare facilities referred to in sub-section (1) shall include:—

(a) consultation with physicians and specialists;

(b) out patient and indor treatment;

(c) diagnostic and laboratory services of all kinds;

(d) all kinds of surgeries;

(e) medicines;

(f) blood transfusing and such other facilities; and

(g) such other treatments and provisions as may be prescribed;

(3) No beneficiary covered under this Act shall be charged any amount for availing any healthcare facility mentioned in sub-section (2) by any hospital specified under sub-section (1) by the appropriate Government.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the public sector insurance companies shall enter into agreement with privately owned hospitals to provide health care services to the beneficiaries covered under this Act and shall make payments to such hospitals as such rates/as may be agreed upon by the public sector Insurance Companies and the hospitals, for providing healthcare facilities free of cost to the beneficiaries covered under this Act.

Public sector insurance companies to make payments to hospitals.

(2) The public sector insurance companies which have entered into an agreement with private hospitals may either themselves or through an agency designated in that behalf inspect the hospitals from time to time to ensure that provisions of this Act are effectively complied with and if, it is found that any private hospital does not comply with the provisions of this Act, such hospital shall be blacklisted and shall also be liable to pay such compensation, as may be prescribed.

6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide in each financial year requisite funds to the Government of the States and public sector insurance companies for the implementation of the provisions of this Act.

Central Government to provide funds.

7. The provisions of this Act and rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Act to supplement other law.

9. The Central Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

There are millions of senior citizens, disabled persons and mentally retarded children in our country who do not have access to adequate and good quality healthcare facilities. Their number is continuously increasing. The general insurance companies do not insure them. Senior citizens after completing the age of sixty five years are not insured for health cover by the private sector insurance companies. Public sector insurance companies have recently started insuring senior citizens irrespective of age but majority of senior citizens are out of the ambit of health insurance whereas at this juncture of their lives they need the health cover the most. Similarly mentally retarded children and disabled persons have to depend on others for many things including the healthcare facilities. The families of disabled persons and mentally retarded children are forced to bear huge costs beyond their means for the healthcare.

Hence, it has become necessary for the Government to take sole responsibility to provide health insurance and healthcare facilities to senior citizens, disabled persons and mentally retarded children.

Hence this Bill.

RAJ KUMAR DHOOT

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#### FINANCIAL MEMORANDUM

Clause 3 (2) Provides that appropriate Grants shall pay the premium of the health insurance.

Clause 4 of the Bill provides for free healthcare facilities. Clause 7 makes it obligatory for the Central Government to provide requisite funds for the purposes of this Bill. The Bill if, enacted will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the amount at this juncture but it is estimated that a sum of rupees two lakh crore may involve as recurring expenditure per annum. No non recurring expenditure is likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matter of details only. The delegation of legislative power is of a normal character.

## II

### BILL NO. XXXV OF 2016

*A Bill to provide for the eradication of unemployment amongst the youth by granting right to work to every eligible youth and for payment of unemployment allowance during the period of unemployment and for making all the sanctioned posts in Government employment non-lapsable and free from abolition and establishment of right to work fund for funding unemployment allowance and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Youth (Eradication of Unemployment and Miscellaneous Provisions) Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "employment exchange" means an employment exchange set up by the appropriate Government;

(c) "fund" means the Right to work Fund establishment under section 6;

(d) "government employment" include all the services in the Ministries, Departments, subordinate offices, bodies, public enterprises, constitutional bodies, educational institutions including universities, colleges, schools etc., health services providers, Banks and financial institutions and all such organisation which are under the appropriate Government with sanctioned strength of officers and staff;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "youth" include any human being a male, female or transgender who has attained the age of eighteen years but not crossed the age of forty five years and who is a citizen of India.

**3.** Every unemployed youth shall have the right to work to be provided by the appropriate Government as a measure of eradication of unemployment subject to the age, educational qualification and ability of the youth as may be prescribed:

Eradication of unemployment through right to work.

Provided that the youth seeking employment under this section shall register his name in an Employment Exchange under the appropriate Government.

**4.** Till such time an employment is provided to the unemployed youth under section 3, the appropriate Government shall pay to the youth unemployment allowance not being less than one thousand rupees per week in such manner as may be prescribed:

Grant of unemployment allowance.

Provided that the unemployment allowance under this section shall be stopped with immediate effect if, the youth secures any work or job either through the Employment Exchange or of his own or otherwise and his name shall also be removed from the register of the Employment Exchange.

**5.** The provisions of this Act shall not apply to any youth,—

Act not to apply in certain cases.

(a) who has income, from one or more sources, not less than the amount of unemployment allowances fixed under section 4;

(b) who is covered under any scheme of unemployment allowance prevalent in a State or Union Territory, as the case may be.

**6. (1)** The Central Government shall, as soon as may be, by notification in the official Gazette, establish a Right to work Fund with initial corpus of one lakh crores rupees to be provided by the Central Government after due appropriation made by Parliament by law in this behalf for the purposes of this Act and thereafter make such grants to the fund, from time to time as may be required for the purposes of this Act.

Establishment of Right to work Fund.

(2) The Fund shall also be credited with,—

(a) all grants made by the Central Government and Contributions made by Governments of the States and administrations of the Union Territories;

(b) all voluntary donations made to the fund by individuals, bodies, corporates and financial institutions etc;

(3) the Fund shall be administered for the purposes of this Act in such manner as may be prescribed.

**7.** Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the appropriate Government to fill up all the sanctioned posts of Government employment within one months of the vacancies arising and no sanctioned post of Government employment shall be subject to abolition and lapsing as a matter of policy or for any reason whatsoever of the appropriate Government.

Miscellaneous provisions.

Central  
Government  
to provide  
funds.

**8.** The Central Government shall, after due appropriation made by Parliament by law, from time to time, provide requisite funds to the States for the purposes of this Act.

Act to have  
overriding  
effect.

**9.** The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to  
supplement  
other laws.

**10.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to  
make rules.

**11.** The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.



## STATEMENT OF OBJECTS AND REASONS

Unemployment amongst the youth is the biggest problem of our vast nation today and it is assuming menacing proportions with each passing day. Millions of educated and qualified youth are unemployed. Recently media highlighted that a State Government invited applications for few posts of Peons. In response it received nearly five lakh applications and among the aspirants were Engineers, Technocrats and Ph.D degree holders. Though the concerned State Government ultimately cancelled the process, but this shows the gravity of situation so far as the unemployment in the country is concerned. Quite a large number of unemployed youth have become desperate due to poverty. This situation is being exploited by anti-social and anti-national elements by luring the youth into their net and the youth is choosing the path of violence and crime. Lack of employment opportunities in the country is also leading to brain drain and exodus of large number of skilled and unskilled youth abroad.

Agriculture sector and Government provide majority of jobs but agriculture sector is under stress due to vagary of nature and consistent drought conditions. In Government the number of vacancies are shrinking year after year. In Central Government there are peculiar rules. For instance if a post is not filled for a year it automatically lapses. Similarly, ten per cent of the total vacancies arising in Government employment every year stand lapsed. Then there are Voluntary Retirement Schemes. So the sanctioned strength is decreasing year after year. This trend needs to be checked by making it mandatory to fill up all the sanctioned posts.

It is high time to make concerted efforts for the eradication of unemployment amongst the youth by declaring right to work as fundamental and making it mandatory for the Government to provide employment to all the youth. In case the Government fails to provide employment, it must pay the youth unemployment allowance because Constitution of India guarantees to every citizen the fundamental right to life. The apex court too has observed that for the right to life, decent livelihood is necessary and if a person is unemployed, he and his family can not enjoy a decent life. The Bill gives every youth the legal right to work and grants unemployment allowance. The Bill also provides for the establishment of a Right to Work Fund by the Government for the purposes of the Bill.

Hence this Bill.

RAJ KUMAR DHOOT

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the eradication of unemployment through right to work. Clause 4 provides for the grant of unemployment allowance. Clause 6 provides for the establishment of Right to Work Fund with initial corpus of one lakh crore rupees to be provided by the Central Government. Clause 8 makes it mandatory for the Central Government to provide requisite funds to the States for the implementation of the provisions of the Bill. The Bill if, enacted will involve expenditure from the Consolidated Fund of India. Apart from the initial corpus of one lakh crore rupees, it is estimated that a sum of two lakh crore rupees may involve as recurring expenditure per annum. No non recurring expenditure is likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

### III

#### BILL NO. XXXVIII OF 2016

*A Bill to provide for the establishment of a Water Conservation Authority for the conservation of water of the rivers, ground and rainwater through traditional means of ponds, wells, canals, trenches, etc. and by building reservoirs, bunds and check dams, reviving dried rivers, making trenches in riverbeds, building recharge shafts, deepening and widening canals and ponds, building permanent water conservation structures by means of rainwater harvesting to recharge the groundwater, encouraging people to participate in water conservation movement and plantation of trees in a big way and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the water Conservation Authority of India Act, 2016.

Short title, and  
commencement.

(2) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise, requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases the Central Government;

(b) “Authority” means the Water Conservation Authority of India established under section 3;

(c) “prescribed” means prescribed by rules made under this Act.

Establishment  
of the Water  
Conservation  
Authority of  
India.

3. (1) The Central Government, shall as soon as may be, but within one year of the commencement of this Act, by notification in the Official Gazette, establish a Water Conservation Authority of India for the purposes of this Act.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and common seal with power to acquire, hold and dispose off property, both movable and immovable and to contract and shall by the said name sue and be sued;

(3) The headquarters of the Authority shall be at Aurangabad in the State of Maharashtra and the Authority may with the prior approval of the Central Government, establish offices at such other places in the country as it may deem necessary for carrying out the purposes of this Act;

(4) The Authority shall consist of the following members, namely:—

(a) the Union Minister of Water Resources, who shall be the Chairperson ex-officio;

(b) a Deputy Chairperson to be appointed by the Central Government having the background or specialisation in water conservation and such other qualification as may be prescribed;

(c) five members of Parliament of whom three shall be from Lok Sabha and two from the Rajya Sabha to be nominated by the Presiding Officer of the respective House;

(d) four members to be appointed by the Central Government to represent the Union Ministries of Agriculture and Farmers Welfare, Finance, Drinking Water and Sanitation and Rural Development, respectively;

(e) not more than four members to be appointed by the Central Government, in consultation with the Governments of the States representing Governments of the States, in the alphabetical order, and it shall be ensured that all the States get represented in the Authority, by rotation;

(5) The salaries and allowances payable to and other terms and conditions of service of the Deputy Chairperson and other members of the Authority shall be such, as may be prescribed.

(6) The Authority shall have a Secretariat with such number of officers and staff headed by a Secretary who shall be the member Secretary of the Authority, with such terms and conditions of service, as may be prescribed from time to time.

(7) The Authority shall observe such procedure in the transaction of its business as may be prescribed.

Functions of  
the Authority.

4. (1) The Authority shall formulate and execute a comprehensive action plan for the conservation of water of rivers, ground and rainwater throughout the country and perform such other functions relating to water conservation as may be assigned to it by the Central Government.

(2) Without prejudice to the generality of the provisions of sub-section (1) the action plan for the conservation of water may also include,—

(a) building adequate number of reservoirs at conspicuous places in different parts of the country, particularly in desert and drought prone areas;

(b) reviving all the dried rivers and make trenches in all the river basins;

(c) constructing bunds and check dams on river beds;

(d) works relating to deepening and widening canals and ponds;

(e) building recharge shafts and construction of sufficient number of trenches at appropriate places;

(f) building permanent water conservation structures and provision for recycling of wastewater;

(g) desiltation of existing reservoirs, ponds, canals and such other water bodies;

(h) recharging shafts for dried up borewells, village ponds and hollows;

(i) reviving all the lost ponds and lakes;

(j) encouraging people to participate in water conservation in particular school children and villagers to build water conservation structures;

(k) advising the appropriate Government to make rain water harvesting compulsory in all Government buildings, public parks and places, households and establishments and educate the masses about rainwater harvesting;

(l) advising the appropriate Government to diversify water guzzling crops;

(m) giving wide publicity through radio, videos, pamphlets, booklets, hoardings, and through print and electronic media the importance of water conservation;

(n) encouraging tree plantation as a movement;

(o) such other functions as may be deemed necessary for carrying out the purposes of this Act.

**5.** (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Authority every year for the purposes of this Act.

Central Government to provide funds.

(2) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed and the accounts shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him.

**6.** The Authority shall for each financial year prepare in such form as may be prescribed, its annual report giving a full account of its activities during the previous financial year and submit a copy thereof to the Central Government.

Annual report.

**7.** The Central Government shall cause the annual Report and the audit report, together with a memorandum of action taken thereon, of the Authority to be laid before each House of Parliament.

Annual Report and audit report to be laid before Parliament.

**8.** The provision of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

**9.** The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Act to supplement other laws.

**10.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

Marathwada and Madhya Maharashtra in the State of Maharashtra, various parts of Karnataka, Bundelkhand and some other parts of the country recently faced worst crisis of water shortage and some parts had even to rush drinking water through trains from other parts of the country to quench the thirst of the people and livestock. This grim situation has taught the people the importance of water and consequences of wasting it and importance of saving it. In coming years, water shortage will be major challenge. But today most of the rainwater and water of the river goes waste in the Oceans. Groundwater resources have been used for all kinds of purposes from agriculture through tubewells in farming areas to cities where ground water is increasingly being used as the primary water source through borewells, handpumps, well etc. In farm sector water guzzling crops such as sugarcane, paddy, etc. are being cited for receding levels of ground water. In fact the unregulated usage of ground water has led to massive exploitation of this precious resource.

So there is urgent need for water conservation in the country. The rain water has to be conserved through rainwater harvesting and other means. Similar action has to be taken for the conservation of river water. For this purpose, it is felt that National Authority for the conservation of water be established to concentrate on this vital requirement of life and through conservation, problem of water scarcity and shortage can certainly be brought down if not eliminated.

Hence this Bill.

RAJ KUMAR DHOOT

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Water Conservation Authority of India. Clause 5 makes it obligatory for the Central Government to provide adequate funds to the Authority every year. The Bill if, enacted will involve expenditure from the Consolidated Fund of India. Though it is not possible to quantify the exact amount that will involve but it is estimated that a sum of one lakh crore rupees may involve as recurring expenditure per annum.

Non recurring expenditure to the tune of five lakh crores rupees for creating the assets may also involve.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

#### IV

#### BILL NO. XLVI OF 2016

*A Bill to provide for the use of official language in the proceedings of High Courts and for matters connected therewith and incidental thereto.*

BE it enacted by the Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the High Courts (Use of Official Languages) Act, 2016.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazettee appoint.

Definitions.

2. In this Act, unless the context is otherwise requires,—

(a) “appointed day” means the date as may be notified by the appropriate Government for the purposes of this Act;

(b) “appropriate Government” means,—



(i) in relation to the High Court for a State, the respective State Government;  
and

(ii) in relation to other High Courts the Central Government;

(c) “documents” means documents as defined in section 3 of the Indian Evidence Act, 1872;

(d) “High Court” means any Court as defined in clause (14) of article 366, or established under article 231 of the Constitution and includes its Benches;

(e) “Official language” means the official language of the Union under article 343 of the Constitution and includes the language in use for official purposes in any State in which the High Court for that State is located;

(f) “party” includes any person authorized by the party to the matter or an advocate for the party; and

(g) “proceedings” includes pleadings, petition, application, appeal, reference, revision, review, affidavit, counter affidavit, other documents filed or received during course of conduct of the matter, appearance, leading of arguments, during hearing in any matter, judgment, decree or order and such other matters as may be prescribed by the High Court.

**3.** (1) From the appointed day any party to the proceedings before a High Court shall have the right to prefer the official language in conduct of such proceedings in that High Court.

Right of the party to prefer official language in conduct of proceedings.

(2) The party to the proceedings shall make an application to the High Court for the conduct of the proceedings in the official language in such manner as may be laid down by that High Court under section 4.

**4.** (1) Where any party to the proceedings has made preference for the conduct of proceedings in official language, the High Court shall conduct proceedings before it in the official language.

Conduct of proceedings in High Court.

(2) The High Court may lay down by rules the procedure for conduct of proceedings in the official language:

Provided that such procedure shall not entail any additional expense on any party to the case for conducting such proceedings in the official language.

**5.** The appropriate Government shall take such measures as may be necessary to ensure availability of requisite infrastructure the concerned High Court within its jurisdiction for conduct of proceedings in the official language in that High Court from the appointed day.

Measures by appropriate Government.

*Explanation.* — For the purpose of this section, requisite infrastructure includes appropriate translation and typing facility in the official language and such other facilities as may be necessary for conduct of the proceedings in the official languages.

## STATEMENT OF OBJECTS AND REASONS

Article 348 of the Constitution of India envisages law by Parliament that may prescribe a language other than English for the proceedings of the High Courts. The right to fair hearing cannot be done until the litigant understands the language of the hearing. There is a legal maxim that justice should not only be done but the same should also appear to have been done.

Hence, this Bill.

BHUPENDER YADAV

## FINANCIAL MEMORANDUM

Clause 5 provides that the appropriate Government shall take such measures as may be necessary to ensure availability of requisite infrastructure to the concerned High Court within its jurisdiction for conduct of proceedings in the official language in that High Court from the appointed day. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, at this stage, it is not possible to quantify the exact amount of recurring and non-recurring expenditure to be involved.

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**V****BILL NO. LXIX OF 2016***A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of article 324.

**2.** In article 324 of the Constitution, after clause (6), the following clause shall be inserted, namely:—

“(7) The Election Commission shall not allot any symbol to National Party, State Party or otherwise, any symbol which represents National flower, National Animal or bird or any symbol, which is connected with religious belief of any community, under any Order issued by the Commission,”.

## STATEMENT OF OBJECTS AND REASONS

Allotment of symbols is done under the Election Symbols (Reservation and Allotment) Order 1968, and the Election Commission is deemed to have such powers under article 324 of the Constitution of India. In fact, strangely, even substantive matters like deciding matters related to a split in political parties, is also decided under the said Order, namely, para 15 of the Order.

However, allotment of symbols is an equally important aspect related to elections. But, it is unfortunate that religious symbols and symbol symbolises national flower, are allotted to a National Parties.

There is a need to review the allotment and the Commission should be free and fair in dealing with the matters. Considering that India is a highly religious minded country and its people are religious to core, Commission, in all fairness, should not give any scope for the misuse of the symbol.

Further, the symbol is not only used and misused as a religious symbol, but, it was also adopted as a logo of BRICS Summit 2016 held in Goa, recently. By convention, during each summit different logo is adopted. Procedure adopted in choosing the sybmol was that applications or suggestions were invited from the members of public, and, one of the applicants submitted a proposal of lotus, which was accepted by the relevant authorities of the summit, which included Brazil, Russia, India, China and South Africa (BRICS).

In fact, one of the election symbols of the host country, could not have been the logo of an International Summit. In Goa, the State, which is going to the polls soon, Lotus was prominently displayed in every nook and corner of the State.

Hence this bill.

SHANTARAM NAIK

**VI****BILL NO. LXII OF 2016***A Bill to amend the National Waterways Act, 2016.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the National Waterways (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of the  
Schedule.

**2.** In the Schedule to the National Waterways Act, 2016, entries shown against serial numbers 25, 27, 68, 71, 88 and 111 shall be deleted. 17 of 2016.

## STATEMENT OF OBJECTS AND REASONS

The Union Government introduced a Bill in Parliament recently, entitled the National Waterways Bill 2016, which was passed by both the Houses of parliament and, is now law of the land.

The Act has sought to nationalise in all 111 rivers in the country which includes six rivers of Goa which are mentioned in the Schedule of the Act at Serial Nos. 25 (Chapora river), Serial 27 (Cumarjua River), Serial No 68 (Mandovi River), Serial No 71 (Mapusa/Moide River), Serial No 88 (Sal River) and Serial No 111 (Zuari River).

If the intention of the Government was to make the rivers more effectively navigable, then, the proper course would have been to allot some financial assistance to Goa Government for purpose of undertaking dredging work instead resorting to nationalisation of the six rivers which involves taking possession by the Central Government of the six rivers and some unspecified land.

Legal status of the land on both sides of the banks of the six rivers is still not known. Whether by virtue to nationalisation of the six rivers, a certain area on both sides of the six rivers is going to be the property of the Central Government or not has not been made clear.

In what circumstances, the State Government gave approval to the Bill has not been explained to the people of Goa, and also, whether social impact assesment has been made with respect to the six rivers, and whether, issues arising out of impact on fishermen's livelihood and other environmental aspects, have been taken into consideration, has not been made transparent.

At the stage of introduction of the Bill, funding pattern has also not been quantified although it is learnt that besides the budgetary support the funding will involve public private partnership, World bank loan and not less than five to six other sources.

Rallies and morchas were held in the State of Goa on the issue of nationalisation. In the meantime, Mormugao Port Trust has entered into an agreement with Inland Waterways Authority without making Goa Government a Party.

However, since there is a general opposition to the nationalisation of the said six rivers of Goa, the present Bill is being sought to be introduced.

SHANTARAM NAIK

## VII

### BILL NO. LXI OF 2016

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitutional (Amendment) Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

Amendment  
of article 51A.

2. In article 51A of the Constitution in clause (h), after the words, “spirit of inquiry and reform” the words, “through school text books and other institutional mechanism” shall be inserted.



## STATEMENT OF OBJECTS AND REASONS

Despite several attempts being made by individuals and social organisations, no perceptible progress is seen in the matter of achieving the objectives of developing scientific temper and spirit of inquiry and reforms in the society.

Those who propagate progressive thoughts are murdered during daylight and, shockingly, culprits go scot-free. Even in cases where charge sheets are filed after long delays, it is difficult to presume that any justice would be done.

People in the name of religion spread superstitions openly and television channels do not lag behind, in spreading their messages and earn fortunes. Same is the case of fake astrologers who have answers to all the problems from marriages, divorce, love affairs, business issues, child births, relations, court matters to political fortunes.

Children are pressed with legs for giving the child godly blessings, thrown from a height and shockingly, are advised to sacrifice at the altar of 'God'.

The 'godmen' who are respected in the society do not speak a word about the need of eliminating superstitious beliefs in society. Some of them are pampered by society both in India and abroad. Others have left eminent business houses behind by becoming producers of consumer goods at a speed that no genuine businessman in India could achieve or even think of.

It is, therefore, high time that society by and large realize the game plan of fake people who are out to demolish the spirit of inquiry and reform.

Hence this Bill.

SHANTARAM NAIK

## VIII

### BILL NO. LXIII OF 2016

*A Bill to provide for the setting up of a Council to be called the Central Himalayan States Development Council to formulate development plans and schemes and also to monitor their implementation for the balanced and all-round development of the hilly States comprising the Central Himalayan region and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and  
commencement. Act, 2016.

1. (1) This Act may be called the Central Himalayan States Development Council

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that such date shall not be later than six months from the date of assent of this Act.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Council" means the Central Himalayan States Development Council set up under section 3;

(b) "Himalayan States" means the States of Himachal Pradesh, Jammu and Kashmir and Uttarakhand; and

(c) "prescribed" means prescribed by the rules made under this Act.

3. (1) There shall be set up a Council to be called the Central Himalayan States Development Council which shall consist of the following members, namely:—

Setting up of the Central Himalayan States Development Council.

(i) the Chief Minister of each of the Himalayan States:

Provided that if there is no Council of Ministers in any Himalayan State, the President of India may nominate one person to represent such State in the Council for such period as there is no Council of Ministers in such State;

(ii) members of the House of the People and Council of States representing the Himalayan States;

(iii) five persons having special knowledge of and experience in social and economic planning preferably in the hilly areas to be nominated by the President; and

(iv) the Union Minister holding charge of the Ministry of Planning.

(2) The Chairman of the Council shall be nominated by the President from amongst the Chief Ministers of the Himalayan States in such manner as may be prescribed;

(3) The Chairman of the Council shall be nominated for a period of two years:

Provided that if there is no Council of Ministers in any Himalayan State thereby causing vacancy in the Office of the Chairman, the President of India may nominate Chief Minister of any other Himalayan State as Chairman of the Council for such period as there is no Council of Ministers in such State.

4. (1) The Council shall function as a Planning body for the balanced and all-round social and economic development of the Himalayan States.

Functions of the Council.

(2) It shall be the responsibility of the Council to formulate development plans and schemes for each of the Himalayan States and also in which Himalayan States have common interest:

Provided that the Council may, if it considers necessary, having regard to the socio-economic backwardness of the State of Uttarakhand or any area in the State, formulate specific and time bound projects and schemes for the whole State or any area in that State and may review implementation of such projects and schemes.

(3) For securing the balanced development of the Himalayan States, the Council shall forward proposals for:—

(i) accelerating the industrial growth in one or more Himalayan States;

(ii) inter-linking various places by railways or roads including remote villages and hilly areas;

(iii) providing communication and telecommunication facilities;

(iv) providing electricity, drinking water and rural housing;

(v) health services including family welfare schemes;

(vi) providing educational facilities and gainful employment; and

(vii) taking preventive measures to minimize the effect of natural calamities particularly the landslides and cloudbursts.

to the Central Government and the Government of the Himalayan State concerned for their consideration.

(4) For the purposes of clause (i) of sub-section (3), the Council may recommend to the Central Government such concessions, including waiver of duty of excise, as it deems necessary, for a specific period for industrial units in any Himalayan State.

(5) The Council shall recommend to the Central Government and the Government of each of the Himalayan States as to the action to be taken on any matter referred to in sub-section (2) and (3).

Central and State Government to consider the advice of the Council.

**5.** It shall be the duty of the Central Government and the Government of each of the Himalayan States to give due consideration to the advice of the Council and apprise the Council of its views and decisions on such advice.

Meeting of the Council.

**6. (1)** The Council shall meet at least thrice in each year.

(2) The proceedings of every meeting of the Council shall be forwarded to the Central Government and also to Government of each of the Himalayan States.

Officers and staff of the Council.

**7. (1)** The Council shall have a secretarial staff consisting of a Secretary, a Planning Adviser and a Financial Adviser and such other officers and employees as the Central Government may, by order, determine.

(2) The Secretarial staff of the Council shall function under the direction, supervision and control of the Chairman of the Council.

(3) The office of the Council shall be located at such place as may be determined by the Council.

(4) The Administrative expenses of the said office, including the salaries and allowances payable to, or in respect of, members of the secretarial staff of the Council, shall be borne by the Central Government out of the moneys provided by Parliament for the purpose.

Provision of funds to the Council.

**8.** The Central Government shall provide, from time to time, after due appropriation made by Parliament by law, adequate funds to the Council for the implementation of the development plans and schemes formulated by the Council.

Power to make rules.

**9. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The development process in the Central Himalayan States of Uttarakhand, Himachal Pradesh and Jammu and Kashmir has been very tardy due to their geographical location and social background. The people living in these States do not have adequate educational facilities and consequently, employment opportunities. The people also have to travel to other States for medical treatment as there are no well equipped hospitals and qualified doctors. There has also been negligible growth of industries. There is an urgent need for setting up of environment friendly industries in these States for the development of the States as a whole and to enable the local youth to get employment opportunities. For setting up of new industries, special concessions including waiver of excise duty for a specific period should be given to the industries in the States by the Central Government.

The problems of these Himalayan States are interlinked. All these States experience, almost every year, recurrent floods, landslides, cloudburst, etc. thereby causing huge loss of life and property. Basic infrastructure facilities like "*Pucca Roads*", electricity, communication, schools, drinking water, bridges connecting remote villages with Pucca Roads, etc. have still to be made available to all the people of these regions even after sixty years of independence. As these regions share common problems, the solutions to their problems are also common. Many of the development works in these States can be carried out only by involvement of all the three States. The State of Uttarakhand, being recently created, needs special attention for its overall development.

It is, therefore, proposed to established a Central Himalayan States Development Council to look into and accelerated the process of development in these States, particularly in Uttarakhand. A similar Council has been functioning very successfully for North-Eastern States. The establishment of such a Council for the States of Uttarakhand, Himachal Pradesh and Jammu and Kashmir would not only help in the speedier all-round development of the Himalayan States thereby taking the country high on the growth map but would also act as a coordinating agency amongst the people of the States of the Himalayan region.

Hence this Bill.

PRADEEP TAMTA

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of the Central Himalayan States Development Council consisting of persons having special knowledge of and experience in social and economic planning in the hilly areas. Clause 6 provides that the Council shall meet at least thrice each year. Clause 7 provides that the Central Government shall bear the administrative expenditure including salaries and allowances of members, officers and staff of the council. Clause 8 provides that the Central Government shall provide adequate funds to the Council for implementing the development plans and schemes by way of grants, after due appropriation made by Parliament. The Bill, therefor, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees four hundred crore is likely to be involved as a recurring expenditure per annum.

A sum of rupees four hundred crore is also likely to be involved as non-recurring expenditure.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of details only, the delegation of legislative power is of a normal character.

**IX****BILL NO. LXV OF 2016**

*A Bill to provide for recognition and regulation of voluntary organisations and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Voluntary Organisations (Regulation) Act, 2016.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means the State Government in relation to a State and the Central Government in other cases;

(b) "fund" means the Voluntary Organisations Assistance Fund established under section 10;

(c) "National Board" means the National Board of Voluntary Organisations established under section 3;

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "Voluntary Organisation" means any organisation or institution or society, whether incorporated or registered or not, which is engaged in any of the following activities, namely:—

(i) promoting literacy and adult education;

(ii) involved in relief operations during natural calamities like floods, earthquakes, storms, squalls and likewise;

(iii) involved in relief operations and providing assistance to victims in cases of accidents;

(iv) involved in relief operations and providing assistance to victims during strikes and other forms of disturbances;

(v) organizing free medical camps, distributing free medicines, promoting in any way health awareness among general public or running free and charitable dispensaries;

(vi) providing assistance to orphaned children and running children homes for orphans;

(vii) running schools for orphaned and destitute children and providing them with all necessary facilities;

(viii) running homes for destitute women and providing all facilities and training in self-employment;

(ix) running homes for aged and old persons, wherein all necessary facilities and support are provided;

(x) creating awareness among general public regarding pollution hazards and teaching methods of pollution control;

(xi) creating awareness among general public regarding dangerous diseases like AIDS and other contagious diseases;

(xii) creating awareness among general public about family planning;

(xiii) creating awareness among general public about ill effects of social evils like dowry, domestic discords and negligence of dependant persons;

(xiv) creating awareness among general public about the need for religious, caste and linguistic harmony and educating public about measures to be adopted to achieve harmony;

(xv) spreading and taking all necessary steps to enable people to lead a peaceful and healthy life and for improving general standard of life;

without any profit or commercial intention or motive.



- 3.** (1) The Central Government shall establish a National Board of voluntary Organisations at New Delhi. Establishment of a National Board of Voluntary Organisations.
- (2) The Board shall consist of—
- (i) a Chairperson who shall have experience in social services for a period of not less than ten years, to be appointed by the Central Government;
- (ii) four other members who shall have experience in social services for a period of not less than five years, to be nominated by Central Government in such manner as may be prescribed;
- (3) The Chairperson and other members of the Board shall hold office for a term of five years.
- (4) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and members of the Board, shall be such as may be prescribed.
- 4.** (1) The Central Government shall establish a Regional Board of Voluntary Organisations in the capital of every State/Union territory. Regional Board of Voluntary Organisations.
- (2) The Regional Board shall consist of—
- (i) a chairperson who shall have experience in social services for a period of not less than ten years, to be appointed by the Central Government;
- (ii) two other members who shall have experience in social services for a period of not less than five years, to be nominated by the Central Government on the basis of recommendation of the State Government concerned;
- (3) The Chairperson and other members of the Regional Board shall hold office for a term of five years.
- (4) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and members of the Regional Board, shall be such as may be prescribed.
- 5.** (1) The Central Government shall make available to the National Board and the Regional Boards such number of officers and employees as may be necessary for the efficient performance of their functions. Employees of National Board and Regional Board.
- (2) The salaries and allowances payable to, and other terms and conditions of service of the officers and employees of the National Board and the Regional Boards shall be such as may be prescribed.
- 6.** Every voluntary organisation shall, within a period of three months from the date of commencement of this Act, shall apply to the Regional Board for registration with such particulars as may be prescribed. Application for registration.
- 7.** Every Regional Board shall, within one months from the date of receipt of an application from a voluntary organisation, declare whether the application for registration has been accepted or rejected and in case the application has been rejected, the reasons therefor. Registration.
- 8.** Any voluntary organisation, whose application for registration has been rejected may appeal to the National Board. Appeal.
- 9.** The National Board shall, after hearing the views of the Regional Board and the voluntary organisation concerned, take a decision, which shall be binding on both the parties: Decision of National Board.
- Provided that the national Board may before taking a decision, consult experts in the relevant fields.

Constitution of a Voluntary Organisations Welfare Fund.	<p><b>10.</b> (1) The Central Government shall constitute a Voluntary Organisations Welfare Fund.</p> <p>(2) The Central Government and all the State Governments shall contribute to the Fund in such ratio as may be prescribed.</p>
Administration of Fund.	<p><b>11.</b> (1) The Central Government shall administer the Fund in such manner as may be prescribed.</p> <p>(2) The Central Government shall make a grant to each voluntary organisation every year or at such intervals as it may deem necessary.</p> <p>(3) While making a grant under sub-section (2), the Central Government shall consult the National Board and the member of Parliament representing the constituency in which the head office of the organisation is situated:</p> <p>Provided that the National Board may consult the Regional Board concerned in whose jurisdiction the head office of the voluntary organisation is situated before recommending to the Central Government for release of grant.</p>
Annual Report of voluntary organisation.	<b>12.</b> Every voluntary organisation, which is in receipt of grant from the Central Government, shall send an annual report to the Regional Board about its activities during the year and a statement of receipts and expenditure of the organisation.
Regional Boards to send annual reports to National Board.	<b>13.</b> Every Regional Board shall send the annual reports received from the voluntary organisations under its jurisdiction to the National Board alongwith its comments on the performance of the voluntary organisations.
Withholding of grants to voluntary organisation.	<b>14.</b> The Central Government may, after due consultation with the National Board, reduce the amount of grant or withhold the total amount of grant payable to a voluntary organisation for such period as it may determine.
Regional Board to recommend action against voluntary organisation.	<b>15.</b> If, after an enquiry, it is found that any voluntary organisation does not utilise the money for the purpose for which it was granted or involves itself in any activities other than for which it was formed, the Regional Board may recommend to the National Board for taking such action against the voluntary organisation as it may deem fit.
National Board to take action.	<b>16.</b> The National Board on receipt of a report from a Regional Board, shall take such action against the voluntary organisation, as it may deem fit.
Power to make rules.	<p><b>17.</b> (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p> <p>(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, 35 both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>

## STATEMENT OF OBJECTS AND REASONS

Voluntary organisations play a significant role in the development of a nation. They supplement the activities of the Government in times of crisis. In times of natural calamities, voluntary organisations come to the rescue of affected persons even before the Government agencies. They are doing a yeomen service to the society. These voluntary organisations are engaging themselves in wide range of activities *i.e.* in providing education, health care, running homes for orphaned children, old age homes, providing free food and medicines to the needy people, etc. However, many of the voluntary organisations are lacking adequate funds to undertake their activities. They mainly depend upon funds received through contributions and donations which are not enough to meet their expenditure. Moreover, there is no mechanism at present, for registration and regulation of the affairs of voluntary organisations. They do not have any statutory recognition.

At present, Government provides grants to many voluntary organisations. But there is no check on utilisation of money granted to them and their activities. As such, these organisations utilise the money for the purposes other than for which it was granted. On the other hand genuine voluntary organisations are deprived of any assistance from the Government.

There is an urgent need to provide for registration and regulation of voluntary organisations for their better involvement in welfare activities.

The Bill seeks to achieve the above objectives.

PRADEEP TAMTA

#### FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a National Board of Voluntary Organisations. Clause 4 provides for the setting up of Regional Boards in the capital of every State and Union territory. Clause 5 makes provision for appointment of officers and staff of the Boards. Clause 10 provides for the constitution of a Voluntary Organisations Welfare Fund to which both Central and State Governments will contribute. Clause 11 provides for making grants to voluntary organisations every year. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

**X****BILL NO. LXIV OF 2016**

*A Bill to provide for abolition of capital punishment in India.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Abolition of Capital Punishment Act, 2016.
2. (1) Capital punishment is hereby abolished.

Short title.

45 of 1860.

(2) Notwithstanding anything contained in the Indian Penal Code, 1860 or any other law for the time being in force, the maximum punishment for any offence shall imprisonment for life.

Abolition of  
capital  
punishment.

## STATEMENT OF OBJECTS AND REASONS

Capital punishment is barbarous and inhuman which goes against the ethos of a modern civilized society. The savage act of capital punishment raises the moral question whether the State has the right to take away someone's life. That is why the United Nations has decided to appeal to Countries all over the world to do away with capital punishment. Many nations around the world have already heeded the United Nation's appeal.

Some one who has committed the most brutal and heinous crime should not be treated as a person to be done away with. A civilized society should have an attitude of compassion, sympathy and rectification towards these criminals. Even a hardened criminal would think and rethink when the society helps him to change and allows him to live and work with them. A life sentence is sufficient for a person to repent and change his ways to become a good citizen again. The attempt of a civilized State should be to provide enough opportunity for its citizens to realize the wrong he has done and to rectify himself to be a good man and a good citizen.

Hence this Bill.

PRADEEP TAMTA

**XI****BILL NO. LXXI OF 2016**

*A Bill further to amend the Indian Penal Code, 1860.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Indian Penal Code (Amendment) Act, 2016.

Short title  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** For section 124A of the Indian Penal Code, 1860, the following shall be substituted, namely:—

Amendment  
of article  
124A of  
Act 45 of  
1860.

“124A. (1) Whoever acts by words, either spoken or written, or by signs, or by visible representation, or otherwise, urges, incites or promotes violence, against the Government established by law in India and publishes or causes to be published such seditious acts, written or spoken words, signs or visual representation shall be

punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

(2) Notwithstanding anything in sub-section (1), any act, speech, words, signs or visual representation shall not be deemed to be an act of seditions by reason only that it has a tendency,—

(a) to show that the Government has been misled or mistaken in any of its measures;

(b) to point out errors or defects in the Government or the Constitution as by law established or in legislation or in the administration of justice with a view to remedying of such errors or defects; and

(c) to express disapprobation of the administrative or other action of the Government, if such act, speech, words, signs or visual representation does not urge, incite or promote violence against the Government established by law in India”.



## STATEMENT OF OBJECTS AND REASONS

The law relating to sedition that prevails in the country today was enacted by the imperial British Government during its colonial rule. The purpose of this law, as can be logically understood today was to curb down protests and uprisings of the 'subjects' of colonialism, against acts of the Government-whether these be legitimate or tyrannical acts. The law was enacted to clampdown on potential political, cultural, or even intellectual threats, challenges and possible upheaval of the colonizers.

The Indian Constitution, on the other hand, guarantees two very elemental fundamental rights to its citizens. Rights, that through their very nature, elevate the people of the country, from the designation of 'subjects' to citizens. Rights, that permit, the citizens of this democratic nation to speak up against wrongs being committed upon them, whether by outsiders or fellow citizens, or the ruling, all powerful Government itself. These are the Right to Freedom of Speech and Expression, the Right to Freedom of Peaceful Assembly-embodied in articles 19(1)(a) and 19(1)(b) of the Constitution of India.

The sedition law, feudal and imperialist to the extreme in its current wording, cannot be harmoniously constructed along with the spirit of article 19(1)(a) and article 19(1)(b). This is because it presumes that acts of opposition against the Government which incite 'disaffection', 'hatred' or 'contempt' pose a threat to public order. The wide restriction it imposes on article 19(1)(a) and article 19(1)(b) has allowed for the law to be misused against *bona fide* citizens of the country, who have dared to question the policies of the ruling Government. The restrictions imposed by the current sedition law are arbitrary and wide and far outreaching the ambit of reasonable restriction as allowed in article 19, sometimes defeating the purpose of the freedom granted by the Article completely.

This fact has also been recognized by various countries like Britain itself, Australia, Singapore, and others that have either repealed the old sedition law, or brought about suitable amendments in the existing one.

The Bill as proposed seeks to restore the article 19(1)(a) and article 19(1)(b) to their rightful position, wherein acts of opposition against the Government which are carried out without urging, inciting or promoting violence, and which pose no threat to public order and national security will not be classified as seditious acts.

Hence, this Bill.

HUSAIN DALWAI

**XII****BILL NO. LXVI OF 2016**

*A Bill further to amend the code of Criminal Procedure, 1973.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

- 1.** (1) This Act may be called the Criminal Procedure (Amendment) Act, 2016.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force immediately.

Insertions of  
New Section  
154A in Act 2  
of 1974.

- 2.** In the code of Criminal Procedure, 1973, after section 154, the following shall be inserted, namely:—

“154A. Notwithstanding anything contained in section 154,—

Information in  
custodial  
offences.

(1) Any person, including Legal Aid Centre or Non-Government Organisation or any friend or relative, aggrieved by a refusal on the part of an officer incharge of a police station to record the information referred to in sub-section (1) of section 154, in cases relating to custodial offences, may file a petition giving the substance of such information—

(a) before the Chief Judicial Magistrate, in case of custodial offences other than those involving death of the victim; or

(b) before the Sessions Judge, in cases of custodial offences involving death of the victim.

(2) The Chief Judicial Magistrate or the Sessions Judge, if satisfied, on a preliminary enquiry that there is a *prima facie* case, shall either hold enquiry himself into the complaint or direct some other Judicial Magistrate or Additional Sessions Judge, as the case may be, to hold enquiry and thereupon direct the ministerial officer of the Court to make complaint to the competent court in respect of offence that may appear to have been committed.

(3) Notwithstanding anything contained in section 190 of this Code, on a complaint made under sub-section (2) of this section, the competent court shall take cognizance of the offence and try the same.

(4) The Chief Judicial Magistrate or the Sessions Judge may obtain the assistance of any public servant or authority as they may deem fit in holding the enquiry under sub-section (2)."

## STATEMENT OF OBJECTS AND REASONS

As per data collected by National Crime Record Bureau, in the year 2013, 115 custodial deaths were reported across the country, followed by 93 in 2014 and 97 in 2015. It is astonishing to note that out of the 97 deaths in 2015, only 9, that is less than 10% were natural deaths and the maximum were reported as suicides. It is alarming that most of these deaths occur in police custody when such people have not been remanded by courts. People die in police custody before they can even be presented in a court of law.

Our criminal justice system is particularly slow to act in such cases. Out of the 93 recorded deaths in 2014, only 28 cases were registered in which 26 policemen were chargesheeted. In 2015, as against 97 recorded deaths, 35 cases were registered and 28 policemen were chargesheeted. However, both in 2014 and 2015, no policeman was convicted for such offences.

In its 152nd report on Custodial Crimes in 1994, the Law Commission of India pointed out that complainants in cases of custodial crimes find it very difficult to register cases because policemen refuse to even register a case trying to shield their superiors or colleagues. Therefore the Commission suggested an amendment to section 154 of the Code of Criminal Procedure enabling complainants to approach the courts in case police refuses to file a case and empowers courts to order enquiries in such cases. While other recommendations of the Report most notably the rights of the arrestee have been incorporated in the Code, this crucial provision has been left out. The bill proposes, to meet the above objectives.

Hence this Bill.

HUSAIN DALWAI

**XIII****BILL NO. LXVII OF 2016**

*A Bill Further to amend the Indian Evidence Act, 1872.*

Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Evidence (Amendment) Act, 2016.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into effect with immediate effect.

2. In the Indian Evidence Act, 1872 after section 114A, the following shall be inserted, namely:—

"114B. (1) In a prosecution of a police officer for an offence constituted by an act alleged to have caused death or bodily injury to a person, if there is evidence that the death or injury was caused during a period when that person was in the custody of the Police, the court may presume that the death or injury was caused by the Police Officer having custody of that person during that period.

Short title,  
extent and  
commencement.

Insertion of new  
section 114B in  
Act 1 of 1872  
Presumption in  
prosecution of  
custodian death  
or injury.

(2) The Court in deciding whether or not it should draw a presumption under sub-section (1), shall have regard to all the relevant circumstances, including in particular,—

- (i) The period of custody,
- (ii) any statement made by the victim as to how the injuries were received, being a statement admissible in evidence,
- (iii) the evidence of any medical practitioner who might have examined the victims, and
- (iv) evidence of any magistrate who might have recorded the victims statement or attempted to record it."

## STATEMENT OF OBJECTS AND REASONS

As per data collected by the National Crime Record Bureau in the year 2013, 115 custodial deaths were reported across the country, followed by 93 in 2014 and 97 in 2015. It is astonishing to note that out of the 97 deaths in 2015, only 9, that is less than 10% were natural deaths and the maximum were reported as suicides. It is alarming that most of these deaths occur in police custody when such people have not been remanded by courts. People die in police custody before they can even be presented in a court of law.

Our criminal justice system is particularly slow to act in such cases. Out of the 93 recorded deaths in 2014, only 28 cases were registered in which 26 policemen were chargesheeted. In 2015, as against 97 recorded deaths, 35 cases were registered and 28 policemen were chargesheeted. However, both in 2014 and 2015, no policeman was convicted for such offences.

In its 152nd report on Custodial Crimes in 1994, the Law Commission of India pointed out that one of the reasons for low convictions in cases of custodial crimes is because they are very difficult to prove as it happens only in the presence of an accused policeman. If the victim has died, it becomes even more difficult to prove the crime. Therefore, the Commission recommended that in such cases where there is evidence to show that death or injury occurred while in custody, it be presumed that death or injury was caused by the police officer having custody. This places the burden of proving innocence on the police officer accused. While other recommendations of the Report, most notably, the rights of the arrestee have been incorporated in the Code, this crucial provision has been left out. I, therefore, intend to bring up an amendment to the Indian Evidence Act, 1872 by inserting a new section, 114(B).

Hence this Bill.

HUSAIN DALWAI

**XIV****BILL NO. LXXIII OF 2016**

*A Bill to prohibit surrogate advertisements and for matters connected therewith  
or incidental thereto.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and  
extent.

- 1.** (1) This Act may be called the Surrogate Advertisements (Prohibition) Act, 2016.
- (2) It extends to the whole of India.

Definitions.

- 2.** (1) In this Act, unless the context otherwise requires,—

(a) "advertisement" includes any pamphlet, writing, drawing, painting, photograph, bill, circular, notice, label, poster, hoarding, banner or other documents and also includes any visible representation made through radio, television, cassettes or slides by means of any light, sound, smoke or gas and publication in print media such as newspapers, magazines, souvenirs and books;



(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) "prescribed" means prescribed by rules made under this Act; and

(d) "surrogate advertisement" means an advertisement which shows a substitute product in the guise of the real one which otherwise cannot be legally advertised through the print and electronic media.

37 of 1952  
7 of 1995

(2) Words and expressions used but not defined in this Act but defined in the Cinematograph Act, 1952 and the Cable Television Networks (Regulation) Act, 1995 shall have the same meanings respectively assigned to them in those Acts.

**3.** No person shall publish or telecast or cause to be published or telecast or arrange to take part in the publication or telecast of surrogate advertisement.

Prohibition to publish or telecast surrogate advertisements.

**4.** The appropriate Government shall designate such agencies as it may consider appropriate for effective implementation of the provisions of this Act.

Appropriate Govt. to designate agencies to implement.

**5.** Whoever contravenes the provisions of this Act shall be punished with imprisonment for a term which shall not be less than three years but which may extend upto ten years and with fine which shall not be less than three lakh rupees but which may extend upto ten lakh rupees.

Penalty.

**6.** Where an offence under this Act has been committed by a company, firm or other association of individuals, every person who, at the time the offence was committed, was incharge of, and was responsible to the company, firm or association for the conduct of the business of the company, firm or association, as the case may be, shall be deemed to be guilty and shall be liable to be proceeded against and punished accordingly.

Offences by Companies, firms and other associations.

**7.** The provision of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act not in derogation of other laws.

**8. (1)** For the removal of doubts, it is hereby declared that the provisions of this Act shall not apply to advertisements which are aimed at educating the general public or a particular group, in the public interest .

Act not to apply to certain advertisements.

(2) For the purpose of deciding whether an advertisement is aimed at educating general public or a particular group, the Central Government shall designate such number of officers, not below the rank of Joint Secretary, as it may deem fit.

**9. (1)** The Central Government may by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall there after have effect only in such modified form or be of no effect, as the case may be; however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**STATEMENT OF OBJECTS AND REASONS**

The Government of India has banned product advertising for liquor and cigarette companies under the Cable Television Network (Regulation) Act, 1995. Rule 7 of the Cable Television Rules, 1994 also prohibits any direct or indirect promotion of such items in the public domain. Section 6 of Chapter III of Advertising Standard Council of India (ASCI) Code had also laid down certain basic guidelines prohibiting surrogate advertising. Section 2(1) (r) of the Consumer Protection Act, 1986 gives a comprehensive definition of unfair trade practices. Section 5 of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COPTA) prohibits promotion of brand of all tobacco products in all forms of audio, visual and print media. Article 13 of the World Health Organisation Framework Convention on Tobacco Control 2005 bans advertising, promotion and sponsorship of tobacco. However, manufacturers of liquor, cigarette, tobacco and other harmful products injurious to health still promote their products through surrogate advertisement. Surrogate Advertisements are not only misleading, but also false and dishonest in many cases.

The proposed Bill seeks to put a total ban on surrogate advertising of liquor, tobacco and other harmful products to prohibit sponsorship of sports and cultural events either directly or indirectly by these manufacturers.

Hence this Bill.

DR. T. SUBBARAMIREDDY

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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**XV****BILL NO. LXXIV OF 2016**

*A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Right of Children of Free and Compulsory Education (Amendment) Act, 2016

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of Section 2.

**2.** In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), in Section 2,—

35 of 2009.

(a) in clause (c), for the words "six to fourteen years", the words "three to eighteen years" shall be substituted;

(b) in clause (n), after the word "imparting" the words "pre-school education and" shall be inserted.

**3.** In section 3 of the principal Act, for the words "six to fourteen years", the words "three to eighteen years" shall be substituted. Amendment of Section 3.

**4.** In section 4 of the principal Act, for the words "child above six years of age," the words "child above three years of age" shall be substituted. Amendment of Section 4.

**5.** In section 8 of the principal Act, in clause (a), for the Explanation the following shall be substituted namely:— Amendment of Section 8.

*“Explanation.—* The term “compulsory education” means obligation of the appropriate Government to—

(i) provide free pre-school education and elementary school education to every child of the age of three to eighteen years; and

(ii) ensure compulsory admission, attendance and completion of pre-school education and elementary education by every child of the age of three to eighteen years.”

**6.** In section 9 of the principal Act, in clause (d) for the words “up to the age of fourteen years”, the words “up to the age of eighteen years” shall be substituted. Amendment of Section 9.

## STATEMENT OF OBJECTS AND REASONS

India being the signatory to the United Nations Convention on the Rights of the Child (UNCRC), had committed to Article 28 of the UNCRC, made it incumbent on the State to provide elementary education compulsory and free to all. The foundation of schooling is laid in the early years between the ages of three to six years. These early years are regarded as the foundation years and critical for mental and emotional development of a child. The age group is significant for brain development and sets the foundation for sound and basic learning in later years. Hence, it is proposed that minimum age of children is to be reduced from six to three years so that this important age group is covered under the Right to Education Act. Moreover, the existing school system in our country consists from elementary to plus two, accordingly, the maximum age of children for free and compulsory education be enhanced from fourteen to eighteen years.

Hence, this Bill.

DR. T. SUBBARAMIREDDY

## FINANCIAL MEMORANDUM

Section 7 of the principal Act makes it obligatory for the Central and State Governments to provide funds for carrying out provisions of the Act. The proposed amendments as given in clauses of the Bill lowers the entry level age from 6 to 3 years and increases the maximum age limit from 14 to 18 years of every child for free and compulsory education, thereby increasing the financial burden of the Central Government. The Bill, if enacted, would involve additional expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture as the same would depend upon the number of students added by the proposed amendment of the Act. No non-recurring expenditure is likely to be involved.

**XVI****BILL NO. V OF 2016**

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Constitution (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new article  
121A.

**2.** After article 121 of the Constitution, the following new article shall be inserted, namely:—

Procedure in  
respect of  
assurances in  
Parliament.

“121A. (1) Notwithstanding anything contained in the rules and standing orders regulating the procedure of Houses of Parliament, if the Prime Minister or any Minister in the Council of Ministers during the proceedings in either House of the Parliament, gives any assurance, the Minister concerned shall within fifteen working days, issue an executive order to give effect to the assurance given, wherever required, after taking necessary approvals from the appropriate authorities in such manner as Parliament may by law determine.



(2) If the implementation of the assurance given in either House of Parliament warrants a law under the provisions of the Constitution, the Minister concerned shall within thirty working days, introduce a Bill to that effect in the relevant House of Parliament as per the provisions of the Constitution if the Parliament is in Session or cause to send the proposal for promulgation of an Ordinance under article 123 of the Constitution in such manner as Parliament may by law determine:

Provided if, no executive order is issued nor any legislative proposal is introduced in the relevant House of Parliament nor any Ordinance is promulgated on the assurances given in the Parliament either due to resignation or removal of Council of Ministers or due to dissolution of the House of People or due to imposition of President's rule, whatsoever, the Council of Ministers subsequently appointed under article 74 of Constitution shall take required steps under clauses (1) and (2) within the prescribed period to be counted from the next day of taking oath as the Council of the Ministers:

Provided further that if, an executive order is not issued under clause (1) due to operation of election model code of conduct, the executive order shall be issued within the period prescribed under clause (1) from the day on which the election model code of conduct ceases to operate."

3. After article 211 of the Constitution, the following new article shall be inserted, namely:—

Insertion of new article 211A.

"211A. (1) Notwithstanding anything contained in the rules and standing orders regulating the procedure of the Legislature of a State, if the Chief Minister or any Minister in the Council of Ministers during the proceedings in the State Legislative Assembly or Legislature Council, gives any assurance, the Minister concerned shall within fifteen working days, issue an executive order to give effect to the assurance given, wherever required, after taking necessary approvals from the appropriate authorities in such manner as the legislature of the state may by law determine.

Procedure in respect of assurances in Legislature of a State.

(2) If the implementation of the assurance given in the State Legislative Assembly or Legislature Council warrants a law under the provision of the Constitution, the Minister concerned shall within thirty working days, introduce a Bill to that effect in the State Legislative Assembly or Legislature Council as per the provisions of the Constitution if the State Legislature is in Session or caused to send the proposal for promulgation of an Ordinance under article 213 of the Constitution in such manner as the Legislature of the State may by law determine:

Provided if, no executive order is issued nor any legislative proposal is introduced in the State Legislative Assembly nor Legislature Council or any Ordinance is promulgated on the assurances given in the State Legislature either due to resignation or removal of Council of Ministers or due to dissolution of the State Assembly or due to imposition of President's rule, whatsoever, the Council of Ministers subsequently appointed under article 163 of Constitution shall take required steps under clauses (1) and (2) within the prescribed period to be counted from the next day of taking oath as the Council of the Ministers:

Provided further that if, an executive order is not issued under clause (1) due to operation of election model code of conduct, the executive order shall be issued within the period prescribed under clause (1) from the day on which the election model code of conduct ceases to operate."

## STATEMENT OF OBJECTS AND REASONS

The Parliament is supreme legislative body in our Country and Parliament is vested with power to make laws and rules in the interest of public by Constitution of India. Further, the Parliament is also vested with power to amend even the Constitution of India duly following the envisaged procedure. As such, both the Houses of Parliament debate, discuss and deliberate on various issues of public importance and make laws and rules from time to time. During these discussions or debates, the Council of Ministers, including the Prime Minister usually make certain promises and give certain assurances to the House, when the Members express certain doubts on the proposed legislations. It is the bounden duty of the Council of Ministers, *i.e.*, the Government to fulfill these promises and assurances to ensure the dignity of Parliament in the eyes of common people. If the Government fails to implement the promises or assurances given in the supreme legislative body of the Country, the people will lose faith in the parliamentary system, which is detrimental to the interest of a democratic country. Particularly, the people for whose benefit the assurances were given feel that they were betrayed by their own government and dissatisfaction will grow in their mind which can become a threat to sovereignty of the Country.

Over a period of time, the Political Parties winning the public mandate and forming the Government are ignoring the promises made or assurances given by their predecessor Governments thinking that those promises or assurances were not given by their own party without considering the fact that those assurances were given in the supreme legislative body of the country and not fulfilling them will tamper the image of parliamentary system of democracy.

Therefore, the present Bill seeks to provide the constitutional guarantee to the assurances given or promises made by the Council of Ministers including the Prime Minister in either House of Parliament either during the debate or discussion on any issue or while answering any question or responding to any notice or motion or in response to any matter raised by any Member under the prescribed rules, by issuing an executive order to give effect to the promises made or assurances given, so that the successor Governments cannot escape from implementing it.

Similarly, this Bill seeks to provide the Constitutional guarantee to the assurances given or promises made by the Council of Ministers including the Chief Minister in the State Legislatures.

Hence, the Bill.

DR. K.V.P. RAMACHANDRA RAO

SHUMSHER K. SHERIFF,  
*Secretary-General.*